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DEPARTMENT OF VETERANS AFFAIRS

38 CFR Part 14

Recognition of Tribal Organizations for Representation of VA Claimants

AGENCY: Department of Veterans Affairs.

ACTION: Notice of Tribal consultation.

SUMMARY: The Department of Veterans Affairs (VA) is considering issuing a proposed rulemaking to amend its regulations concerning recognition of certain national, State, and regional or local organizations for purposes of VA claims representation. Specifically, the proposed rulemaking would amend VA's regulations to expressly provide for the VA recognition of Tribal organizations so that representatives of Tribal organizations may assist Native American claimants in the preparation, presentation, and prosecution of their VA benefit claims. In addition, the proposed rule would allow an employee of a Tribal government to become accredited through a recognized State organization.

DATES: Comments must be received by VA on or before **[INSERT DATE 30 DAYS AFTER DATE OF PUBLICATION IN THE FEDERAL REGISTER]**.

ADDRESSES: Written comments should be submitted by email at Tribalgovernmentconsultation@va.gov, by fax at 202-273-5716, or by mail at U.S. Department of Veterans Affairs, Suite 915E, 810 Vermont Avenue, N.W., Washington, DC 20420.

FOR FURTHER INFORMATION CONTACT: Clay Ward, VA Office of Tribal Government Relations at (202) 461-7445 (this is not a toll-free number), or by email at

Tribalgovernmentconsultation@va.gov, or by mail at Suite 915B, 810 Vermont Avenue, N.W., Washington, DC 20420.

SUPPLEMENTARY INFORMATION: VA is considering issuing a proposed rulemaking that would amend part 14 of title 38, Code of Federal Regulations, to provide for the recognition of Tribal organizations so that representatives of the organizations may assist Native American claimants in the preparation, presentation, and prosecution of their VA benefit claims. The purpose of the proposed rulemaking would be to address the needs of Native American populations who are geographically isolated from existing recognized Veterans Service Organizations or who may not be utilizing other recognized Veterans Service Organizations due to cultural barriers or lack of familiarity with those organizations.

First, the proposed rulemaking would allow the Secretary of Veterans Affairs to recognize Tribal organizations in a similar manner as the Secretary recognizes State organizations. Specifically, the proposed rulemaking would consider applications from a Tribal organization that is established and funded by one or more Tribal governments to be recognized for the purpose of providing assistance on VA benefit claims. In addition, the proposed rulemaking would allow an employee of a Tribal government to become accredited through a recognized State organization in a similar manner as a county veterans' service officer may become accredited through a recognized State organization. Finally, the proposed rulemaking would extend office space opportunities already granted to employees of State organizations who are accredited to national organizations to similar employees of Tribal organizations. The intended effect of this proposed rule would be to improve access of Native American veterans to VA-

recognized organizations and VA-accredited individuals who may assist them on their benefit claims. The proposed rulemaking would not preempt Tribal law. This Tribal consultation is seeking input from Tribal governments regarding VA's consideration of the issuance of such proposed rulemaking. VA is also seeking comment on the potential compliance costs.

In order to become accredited as a Tribal organization, the organization must show that it meets the requirements in 38 CFR 14.628(d). Pursuant to § 14.628(d), an organization requesting recognition must have as a primary purpose serving veterans; demonstrate a substantial service commitment to veterans either by showing a sizable organizational membership or by showing performance of veterans' services to a sizable number of veterans; commit a significant portion of its assets to veterans' services and have adequate funding to properly perform those services; maintain a policy and capability of providing complete claims service to each claimant requesting representation or give written notice of any limitation in its claims service with advice concerning the availability of alternative sources of claims service; and take affirmative action, including training and monitoring of accredited representatives, to ensure proper handling of claims. VA is seeking comment on the amount of time and the costs of persons' time to show that the organization meets these requirements. VA's Office of the General Counsel accepts recognition requests via mail, fax, or email.

Signing Authority: The Secretary of Veterans Affairs, or designee, approved this document and authorized the undersigned to sign and submit the document to the Office of the Federal Register for publication electronically as an official document of the

Department of Veterans Affairs. Robert D. Snyder, Interim Chief of Staff, approved this document on March 3, 2016, for publication.

Approved: March 3, 2016.

William F. Russo,
Director,
Office of Regulation Policy & Management,
Department of Veterans Affairs.

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